

118 CMR 7.00: PROTECTIVE SERVICES

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7.01: Scope and Purpose

118 CMR 7.00 establishes the responsibilities and obligations of the Commission in ensuring that protective services are provided to persons with disabilities who are the subjects of reports made to the Commission and who require such protective services.

7.02: General Principles

Regarding the provision of protective services, the Commission shall:

- (1) ensure that protective services are provided in the least restrictive and most appropriate manner possible to a person with a disability with his or her consent, or that of his or her guardian, or by order of a court of competent jurisdiction as indicated in 118 CMR 7.02(4);
- (2) designate a state agency to act as a protective services provider, and cooperate with that agency and any other agency to provide those protective services that ensure that the person with a disability is protected from abuse and that the effects of abuse are remediated;
- (3) ensure the appropriate provision of emergency protective services by the designated protective services provider; and
- (4) petition the Probate and Family Court for the county in which the person with a disability resides, pursuant to M.G.L. c. 19C, § 7 and 118 CMR, for a judicial determination regarding the issue of the provision of protective services, the appointment or removal of a conservator, limited or general guardian, or for issuance of an order for protective services when a person with a disability refuses or is unable to consent to the provision of necessary protective services or when the guardian of a person with a disability is: unavailable or unwilling to consent to the provision of necessary protective services; suspected of involvement with the alleged abuse; or is not acting in the best interests of the person with a disability.

7.03: Protective Services Assessment

- (1) The initial determination of the need for and requirements of protective services shall be part of the investigative process conducted pursuant to M.G.L. c. 19C, §§ 4 and 5, shall be consistent with the protocols adopted by the Commission and shall be made part of the Initial Response submitted pursuant to M.G.L. c. 19C, § 5 and 118 CMR 5.00: *Investigations*. Said determination shall, at minimum, include the following:
 - (a) A finding regarding whether or not abuse is substantiated;
 - (b) A finding regarding whether the person with a disability is at risk of further harm; and
 - (c) A finding and recommendation identifying an appropriate protective service provider to respond to the abuse which occurred and to prevent further risk of harm to the person with a disability.
- (2) Upon receipt of the Initial Response completed by the referral agency or by the Commission, the Commission shall refer the matter to the designated state agency within the Executive Office of Health and Human Services for purposes of providing protective services and preparing a protective service plan.
- (3) The designated protective services provider shall complete and file with the Commission a protective services plan within 30 days of its designation as the provider. The plan shall contain, at minimum, the following information:

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- (a) a narrative description of the protective service activity(ies) or task(s) to be provided;
- (b) identification of the individual(s) responsible for supervising the provision of and for performing the identified protective service activity(ies) or task(s);
- (c) identification of the proposed or actual start date for the provision of the identified protective service(s); and
- (d) such other information the Commission may determine to be necessary to fulfill its responsibility to monitor the provision of protective services.

(4) After receipt of the protective services plan, the Commission shall review and approve the plan in accordance with its monitoring responsibilities.

7.04: Provision of Protective Services

- (1) Protective services shall:
 - (a) be provided by agencies of the Commonwealth and vendors who contract or license with such agencies pursuant to the approved protective services plan filed with the Commission;
 - (b) be provided in the least restrictive manner possible; and
 - (c) be provided to protect a person with a disability from abuse, to remedy the effects of abuse and to respond to the underlying abusive situation, to the extent possible.
- (2) Protective services may include, but are not limited to:
 - (a) Social services casework and case management, including, but not limited to, evaluations of functional capacity and resources, development of a service plan, appropriate referral services, and emergency response;
 - (b) Counseling;
 - (c) Homemaker/chore services;
 - (d) Temporary shelter;
 - (e) Dietary services;
 - (f) Emergency services;
 - (g) Respite services;
 - (h) Alternative housing;
 - (i) Housing assistance;
 - (j) Special attendants;
 - (k) Adaptive equipment;
 - (l) Transportation;
 - (m) Psychology services;
 - (n) Health-related services;
 - (o) Referral to legal services;
 - (p) Recommendations for staff focused actions including, but not limited to, recommendations for staff training and corrective action; and
 - (q) Recommendations for implementation of corrective agency policies and procedures.
- (3) Unless the person with a disability has been found incapacitated and/or protective services are being implemented pursuant to a court order, the person with a disability may refuse any or all protective services.

7.05: Monitoring

- (1) The Commission shall monitor the provision of protective services for each person with a disability who is determined to require protective services.
- (2) The monitoring of each case shall continue until the Commission closes the case.
- (3) The monitoring by the Commission for each case may include, but shall not be limited to:
 - (a) a review of emergency protective services provided by the designated protective services provider;
 - (b) a visit to the person with a disability;
 - (c) a determination of the status of the alleged abuser, if identified;

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- (d) a review of case records of the Commission, of the referral agency which conducted the abuse investigation, and of the agency providing the protective services, if different from the referral agency, including, but not limited to, the protective service plan submitted to the Commission; and
- (e) a review of any plan for transition to any needed long-term services.

REGULATORY AUTHORITY

118 CMR 7.00: M.G.L. c. 19C, §§ 3(b), (d), 6 and 7.

NON-TEXT PAGE